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5 Attorneys for Defendant TYHESIA BACON

6
7 IN THE UNITED STATES DISTRICT COURT
8
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA

11 Plaintiff,
12 vs.

13 TYHESIA BACON, et al.

14 Defendants

15 } Case No. CR-05-00395 CRB

16 } DEFENDANT TYHESIA BACON'S
17 } SENTENCING MEMORANDUM

18 } Date: July 23, 2008
19 } Time: 2:00 p.m.
20 } Court: Hon. Claudia Wilken

21 The defense has received and reviewed the Amended Presentence Investigation
22 Report prepared by United States Probation Officer Brian D. Casai.

23 As an initial matter, the defense would like to thank and commend USPO Casai for
24 his thorough and thoughtful presentence report in this matter.

25 However, the defense would respectfully request that this Court sentence Ms.
26 Bacon consistent with paragraphs 8 and 14 of the parties' Rule 11(c)(1)(C) plea
27 agreement, i.e. three years probation with six months home detention as a condition of
probation (with other conditions to be fixed by the Court); no fine; and \$100 special
assessment.

1 Furthermore, with respect to restitution, the defense requests this Court enter a
2 restitution amount of \$10,000 which is consistent with the plea agreement language of
3 restitution no less than \$10,000. Under 18 U.S.C. § 3664(h), "if the court finds that more
4 than 1 defendant has contributed to the loss of a victim, the court may . . . apportion
5 liability among the defendants to reflect the level of contribution to the victim's loss and
6 the economic circumstances of each defendant."

7 Here, Ms. Bacon is currently earning \$15 per hour, she has no assets, she has
8 delinquent medical bills of \$15,865, and she is the sole support of her 12-year-old
9 daughter. Pre-Sentence Report ¶ 66. Her economic circumstances clearly do not militate
10 in issuing a joint and several restitution order in the amount of \$35,674.97. Moreover, the
11 Pre-Sentence report acknowledged her minor participant role in the offense by reducing
12 her offense level by 2 levels. Pre-sentence report at ¶ 38. Thus, her level of contribution
13 to the victim's losses should likewise be apportioned to reflect her minor participant role.
14 Finally there are at least four (4) other co-defendants who are at least as or more culpable
15 and/or involved than Ms. Bacon, and should this Court apportion each defendant with an
16 amount of at least \$10,000, the victims would be fully compensated should each
17 defendant satisfy his or her restitution obligation.

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19 Date: July 22, 2008

Respectfully Submitted,
TAMOR & TAMOR

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21 _____/s/
22 RICHARD A. TAMOR, ESQ.
23 Attorneys for TYHESIA BACON
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